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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,746	03/02/2001	Dominique Paul Gerard Claessens	B0 41853	5010

466 7590 06/15/2005

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EXAMINER	
USTARIS, JOSEPH G	
ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/720,746	CLAESSENS, DOMINIQUE PAUL GERARD	
	Examiner	Art Unit	
	Joseph G. Ustaris	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5 and 6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5 and 6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 21 January 2005 in application 09/720,746.

The objection to the abstract and drawing are now withdrawn in view of the amendments.

Furthermore, the rejection of claims 1-6 under 35 U.S.C. 112, second paragraph, is now withdrawn in view of the amendments.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claessens (WO 97/38624) in view of Carles (US005661516A).

Regarding claim 1, Claessens discloses a method for measuring and processing data in reaction to stimuli. The data is obtained by "the confrontation of respondents with visual stimuli" (See Fig. 2 and 3, presentation unit; page 3 lines 9-18), i.e. advertisements. The data "represents the time during which the attention of a respondent was directed to a specific stimulus" (See page 19 lines 1-17), i.e. the time the respondents are looking at an advertisement. The advertisements or "stimuli" are "subdivided in at least two

distinguished attention areas" (See page 18 lines 15-16 and 34-38), i.e. the three advertisement elements of an advertisement. The data also represents "the time during which the attention of a respondent was directed to a specific attention area of a specific stimulus" (See page 19 lines 1-17), i.e. the time the respondent spends looking at each of the advertisement elements of an advertisement. The system "accumulates data received from a number of respondents and related to one specific stimulus" (See page 10 lines 6-21) and are "subdivided into sets of data each related to one of said attention areas of said one stimulus" (See page 10 lines 15-21 and page 18 lines 15-16), i.e. the processed data represents data per stimulus and per stimulus item or advertisement elements of an advertisement. Based on the data "it is determined how many respondents have paid attention to a specific one of said attention areas or to two of more of said specific areas" (See page 19 lines 1-17). The results from above are then "added in a predefined manner to obtain a total score for the respective stimulus" (See page 19 lines 18-28). However, Claessens does not disclose that each result is "multiplied by a predetermined weighting factor".

Carles discloses a method of processing data in order to target advertisements/commercials. Carles discloses that various variables or data is used in determining the score of the advertisement. Each variable is "multiplied by a predetermined weighting factor" and then added to obtain the total score (See column 5 lines 19-65). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the process disclosed by Claessens to "multiply each result by a predetermined weighting factor before being added into the

total score", as taught by Carles, in order to provide a means of prioritizing the various data thereby providing customized statistics for the user.

Regarding claim 2, the advertisement or "stimulus" has "three distinguished attention areas" (See Claessens page 10 lines 30-38; page 18 lines 15-16 and 35-38), i.e. brand, visual or "image information", and text or "textual information".

Regarding claim 3, Claessens discloses that based on the data it is determined "how many respondents have paid attention to the brand name or logo and to the image information and to the textual information" (See Claessens page 19 lines 1-17). Claessens also discloses that various measurements can be made to create various data, i.e. record the number of respondents that fixated one, two, or three of the advertisements elements or "how many respondents have paid attention only to the brand name or logo" and "how many respondents have paid attention to the brand name or logo and to the image information" (See Claessens page 18 lines 15-16 and 35-38). Claessens also discloses that various measurement reports can be created from the data (See Claessens page 11 lines 14-23).

Regarding claim 5, the results are "expressed in percentages" (See Claessens page 19 lines 2-3, 11-12, 21-22).

Regarding claim 6, the data represents the amount of respondents who spend between 60-1000 ms fixated on the advertisement elements, where inherently any "time period the attention was paid to one of the attention areas is less than a predetermined time value the respective data is removed from further processing", in order to maintain accurate measurements (See Claessens page 19 lines 1-17).

Response to Arguments

3. Applicant's arguments filed 21 January 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant argues that Carles' weighting step is applied to data related to customer households, not measurement data obtained from individuals. However, Claessens discloses collecting data from individuals (See pages 17-20). Carles also discloses collecting various data from individuals and applies a weighting step to obtain a final score (See column 5 lines 19-67). It is well known to apply weighting factors to any data in order to provide a means of prioritizing the various data thereby providing customized statistics.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGU
June 1, 2005

VIVEK SRIVASTAVA
PRIMARY EXAMINER